

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXXX

Petitioner

v

File No. 121157-001

Blue Cross Blue Shield of Michigan

Respondent

Issued and entered
this ____ day of December 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On August 4, 2011, XXXXX, authorized representative of XXXXX (Petitioner), filed a request with the Commissioner of Financial and Insurance Regulation for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on August 11, 2011.

The Commissioner notified Blue Cross Blue Shield of Michigan (BCBSM) of the external review request and asked for the information it used to make its final adverse determination. The Commissioner received BCBSM's response on August 22, 2011.

The issue in this external review can be decided by a contractual analysis. The contract here is BCBSM's *Simply Blue Group Benefits Certificate* (the certificate). The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

From January through April 2011, the Petitioner received daily oral doses of the drug methadone at the XXXXX Clinic (XXXXX). XXXXX does not participate with the BCBSM network of providers. The amount charged for this care was \$1,200.00 (120 days @ \$10.00 per day).

BCBSM denied coverage for the methadone provided by XXXXX because it is not a participating provider. The Petitioner appealed the denial through BCBSM's internal grievance process. BCBSM held a managerial-level conference on May 17, 2011, and issued a final adverse determination dated June 6, 2011.

III. ISSUE

Did BCBSM correctly deny coverage for Petitioner's methadone?

IV. ANALYSIS

Petitioner's Argument

The Petitioner's authorized representative states BCBSM denied coverage because the methadone was not dispensed as part of an approved substance abuse treatment program and that RCC is not an approved program or a BCBSM participating provider. She indicates that BCBSM gave her a list of providers of methadone programs but when she contacted them they either didn't return her call or stated they did not participate with BCBSM.

The Petitioner believes that methadone was medically necessary for treatment of his substance abuse problem. He argues that substance abuse treatment is covered under the certificate and that RCC is adept at providing the methadone treatment. Moreover, methadone is a controlled substance that can only be dispensed by a federally-approved facility and XXXXX is such an approved facility and has a state-approved pharmacy.

The Petitioner believes BCBSM is required to cover his methadone at XXXXX.

BCBSM's Argument

In its final adverse determination, BCBSM advised the Petitioner's authorized representative why it denied coverage:

. . . As we discussed, you and your son are covered by the *Simply Blue Group Benefits Certificate*. **Section 3 (Coverage for Hospital, Facility and Alternatives to Hospital Care)** explains on page 3.37 that we do **not** pay for the dispensing of methadone, or testing of urine specimens, unless you are receiving therapy counseling, or psychological testing while in an approved outpatient and/or residential abuse treatment program.

In this case, you are requesting reimbursement for pharmacy services. It is important for you to understand that your policy provides coverage for three benefit categories (hospital and facility, professional, and pharmacy/drugs). As explained, this service is only available for reimbursement as part of a substance abuse treatment program under the terms of your coverage provided for hospital

and facility benefits. It is not a stand-alone pharmacy/drug benefit. Thus, direct reimbursement to you for pharmacy services is not available.

Commissioner's Review

The certificate sets forth what substance abuse services are covered. On p. 3.35, under "Outpatient and Residential Substance Abuse Treatment," the certificate states:

We pay for treatment of substance abuse in **participating** residential and outpatient substance abuse treatment programs. . . .

However, the certificate further states on p. 3.37:

Services That Are Not Payable

* * *

- Dispensing methadone or testing of urine specimens unless you are receiving therapy, counseling or psychological testing while in the program

Taken together, these two provisions indicate that methadone is covered only when it is dispensed by a participating provider as part of a treatment program. It is undisputed that RCC does not participate with BCBSM. There is nothing in the certificate that requires BCBSM to cover methadone from a nonparticipating provider even if, as the Petitioner asserts, there were no approved programs available to or convenient for the Petitioner.

The Commissioner concludes that BCBSM's denial of coverage was consistent with the certificate language.

V. ORDER

Blue Cross Blue Shield of Michigan's final adverse determination of June 6, 2011, is upheld. BCBSM is not required to provide coverage for Petitioner's methadone treatment.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

R. Kevin Clinton
Commissioner